


Exhibit 11

Case Clip(s) Detailed Report
Friday, December 18, 2009, 11:16:05 AM

State of OK v. Tyson (11-30-09)

 **Thompson, Steve (Vol. 01) - 04/07/2009**

1 CLIP (RUNNING 01:46:37.497)

 **ST040709**

ST040709 47 SEGMENTS (RUNNING 01:46:37.497)



1. PAGE 5:22 TO 6:18 (RUNNING 00:00:39.784)

22 Q. Good morning, sir.
23 A. Good morning.
24 Q. Would you state your full name for the
25 record, please.
00006:01 A. Stephen Arthur Thompson.
02 Q. And who is your employer?
03 A. The state of Oklahoma.
04 Q. And what is your employment address?
05 A. 707 North Robinson.
06 Q. Do you live here in Oklahoma City?
07 A. I do not.
08 Q. Where do you live?
09 A. I live in El Reno.
10 Q. And what is your position for the state of
11 Oklahoma?
12 A. I'm the executive director of the Department
13 of Environmental Quality.
14 Q. And how long have you had that position?
15 A. For almost seven years.
16 Q. Okay. When did you first go to work for the
17 state of Oklahoma?
18 A. In February of 1985.

2. PAGE 8:13 TO 8:25 (RUNNING 00:00:51.981)

13 Q. Was there a time period when you worked for
14 the office of the Secretary of Environment?
15 A. I'm sorry, there was a time period. When
16 the Department of Environmental Quality was
17 established by statute, the Department of Pollution
18 Control was disestablished.
19 And so between July of 2000 -- I'm sorry,
20 July of 1992 and August of 2003, I served as the
21 assistant Secretary of Environment under secretary
22 Patty Eaton.
23 Q. All right. You just said August of 2003.
24 Did you mean 1993?
25 A. I'm sorry, 1993.

3. PAGE 11:08 TO 11:12 (RUNNING 00:00:16.857)

08 Q. Now, this position that you currently hold
09 at the Department of Environmental Quality, what are
10 your duties?
11 A. I have general oversight of the agency,
12 particularly related to policy, budget and operations.

4. PAGE 14:11 TO 20:02 (RUNNING 00:08:53.034)

11 Q. Since you have been employed with the state
12 of Oklahoma, have you ever been involved in a natural
13 resource damage assessment?
14 A. Yes. The agency is involved in natural
15 resource damage assessments.
16 Q. About how many have you been involved in, or
17 aware of?

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21 is no way to address non-point source pollution, but
 22 it is an effective tool.
 23 Q. Okay.
 24 A. If done properly.

36. PAGE 101:02 TO 101:04 (RUNNING 00:00:12.378)

02 Q. This is Exhibit 14, Mr. Thompson. We are
 03 not going to read everything in it --
 04 A. That's good.

37. PAGE 101:11 TO 101:24 (RUNNING 00:00:45.621)

11 Q. Okay. Generally a Q-A-A-P, a QAAP, Quality
 12 Assurance Project Plan, generally, what is a Quality
 13 Assurance Project Plan?
 14 A. It is a document that assures quality work
 15 in the implementation and testing and monitoring
 16 necessary to do any project, it is a quality assurance
 17 plan, similar to many other quality assurance plans.
 18 Q. Is a QAAP a necessary part of Oklahoma's
 19 TMDL water quality work?
 20 A. Yes.
 21 Q. And Oklahoma Department of Environmental
 22 Quality would not undertake this type of work without
 23 a QAAP, would it?
 24 A. No, we would not.

38. PAGE 101:25 TO 103:01 (RUNNING 00:01:58.207)

25 Q. In my review of documents, which I'm not
 00102:01 going to represent to you is exhaustive, but this is
 02 the first TMDL project package that, for the Illinois
 03 River Watershed that I saw, and this is dated May
 04 15th, 2003.
 05 Are you aware of any project package for the
 06 Illinois River TMDL that may predate this?
 07 A. No.
 08 Q. If you flip into the document, and I'm
 09 referring to the page numbers at the top, page 2 of
 10 20?
 11 A. Page 2 of 20?
 12 Q. Yes, sir.
 13 A. Okay.
 14 Q. All right. On the last paragraph, let me
 15 read this statement, it says, "The first step in the
 16 restoration of such a waterbody consists of conducting
 17 a total maximum daily loading study to develop the
 18 state's watershed restoration assessment strategy for
 19 this waterbody."
 20 Do you agree with that statement?
 21 A. I agree with the statement, yes.
 22 Q. And reviewing this, it appears that this
 23 TMDL study was going to be accomplished in part by
 24 making use of computer simulations prepared by Dr.
 25 Storm of Oklahoma State University?
 00103:01 A. That's correct.

39. PAGE 103:02 TO 103:25 (RUNNING 00:01:42.653)

02 Q. Let's turn to page 4 of 20. In the
 03 middle -- page 4 of 20, just below number 6, the
 04 paragraph that begins, there it says, "It is
 05 recognized that surface water, non-point source water
 06 quality modeling and monitoring have fundamental
 07 uncertainties because of the high transient and
 08 diverse phenomena involved. The precision and
 09 accuracy that can be obtained are not as good as that

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10 can be attained for some other types of environmental
11 models, such as groundwater models of conservative
12 substances."
13 Do you agree, Mr. Thompson that surface
14 water, non-point source water quality models have
15 significant uncertainty?
16 A. That the models do?
17 Q. Yes, sir. Modeling output.
18 A. They have fundamental uncertainties. There
19 are other methods that are more certain.
20 Q. Okay. But models nonetheless can be useful
21 in making watershed management decisions?
22 A. They can.
23 Q. Is that one of the reasons why DEQ uses
24 models in developing total maximum daily loads?
25 A. That's one of the reasons.

40. PAGE 104:15 TO 105:22 (RUNNING 00:02:19.293)

15 Q. Yes, sir. All right, sir, I have handed you
16 what I have marked as Exhibit 15. The first page is a
17 memorandum from -- is that Ilda, Ida?
18 (Defendant's Exhibit 15 marked for
19 identification)
20 A. Ilda Hershey.
21 Q. Ilda Hershey from ODEQ?
22 A. Uh-huh.
23 Q. To Jennifer Lee Meyer Wasinger. Actually, I
24 believe I said that just backwards. It is to
25 Ms. Hershey from Ms. Wasinger?
00105:01 A. That's correct.
02 Q. Dated May 7th, 2003. This came from ODEQ
03 files.
04 A. Uh-huh.
05 Q. And Ms. Wasinger states, "Attached please
06 find the letter from EPA Region 6 regarding the
07 Quality Assurance Project Plan for the above
08 referenced grant project. EPA completed their review
09 and subsequently approved ODEQ's advised QAAP
10 submitted May 19th, 2003."
11 And then attached to it is, what, what is
12 that from the EPA?
13 A. It is a letter from EPA to, back to
14 Ms. Wasinger, stating that the QAAP has been approved.
15 Q. All right. When ODEQ gets an approval from
16 the EPA on a QAAP, does that mean you can then proceed
17 with the work?
18 A. It means we can, yes.
19 Q. Did this EPA approval of this QAAP in May of
20 2003, did that lead to the development of the TMDL for
21 the Illinois River and Lake Tenkiller?
22 A. It led to the development of a draft TMDL.

41. PAGE 107:19 TO 112:14 (RUNNING 00:08:35.854)

19 Q. Yes, sir. All right. I handed you Exhibit
20 17, again, another transmission from Ms. Wasinger to
21 Ms. Hershey, this one dated September 6, 2004. This
22 one states, "Attached please find the letter from EPA
23 Region 6 approving the Quality Assurance Project Plan
24 entitled, Review of Monitoring and Assessment Data to
25 Support Development of TMDL for Lake Tenkiller and the
00108:01 Illinois River Watershed."
02 And does it appear that the approval from US
03 EPA dated September 15th, 2004 is attached?
04 (Defendant's Exhibit 17 marked for
05 identification)

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06 A. It does.
07 Q. Did this approval of a QAAP result in a TMDL
08 being completed for the Illinois River Watershed?
09 A. Not that I'm aware of.
10 Q. What is the status of the TMDLs for the
11 streams and Lake Tenkiller in the Illinois River
12 Watershed?
13 A. It remains in draft.
14 Q. Why is that?
15 A. Somewhere during this time period, it came
16 to my attention that process by which TMDLs were done
17 and load allocations were made using the TMDL process
18 might produce an answer, where there was an unfair
19 allocation given to point sources.
20 And that had to do not with the TMDL process
21 itself, or with the QAAP, or with anything else, but
22 with the way that the Water Board determines water
23 quality standards. It has something to do with the
24 water quality standards.
25 And I am not, I am certainly in favor -- and
00109:01 it has to do with flow. And while I am certainly in
02 favor of an equitable process for allocations of load
03 between point sources and non-point sources, I am not
04 in favor of an inequitable process.
05 And so I asked Jon Craig, our Water Quality
06 Division Director, to take that issue up with the
07 Oklahoma Water Resources Board, and to the best of my
08 knowledge, that discussion, I haven't checked on it in
09 a while, probably I should.
10 But until I'm satisfied that there is an
11 equitable distribution of the load between point
12 sources and non-point sources, I'm going to be
13 uncomfortable with the results.
14 It was at that time that I, while we had a
15 lot of TMDL work that needs to be done, to the best of
16 my knowledge, that TMDL work has been done in
17 watersheds where there are only non-point sources of
18 pollution, where this issue doesn't arise.
19 So, we went forward with TMDLs in watersheds
20 where there were only non-point sources or where there
21 was, where an industry or a municipality needed to do
22 a TMDL, often they were the contractors on the TMDL to
23 allow an increase in their discharge, to determine if
24 there was sufficient room within the standard to allow
25 an increase in either flow or concentration.
00110:01 So that was -- that was my decision. Until
02 I'm, my people can tell me that they feel that -- not
03 being a scientist, that that distribution is
04 appropriate, that will be our position.
05 Q. Where is the difficulty arising? Is it in
06 the way the water quality standard is drafted, or is
07 it in --
08 A. When you take readings, you take readings
09 at, under the current process at high temperature and
10 low flow. I mean, it is clear the impacts from
11 non-point sources, irrespective of the source, whether
12 they are my sources or somebody else's sources,
13 sources that I have jurisdiction over or somebody else
14 have, occur at high flow.
15 And so there has to be some -- it seems to
16 me, common sense dictates to me as a non-scientist,
17 that there has to be some accommodation to that idea.
18 Q. It sounds like, if I'm hearing what you're
19 saying, that part of the problem is the way the
20 standard is set up, if the standard is going to be
21 based on low flow samples, you believe the result is

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22 inequitable?
23 A. I think it is biased toward non-point
24 sources.
25 Q. Okay.
00111:01 A. It is biased, the bias is against point
02 sources. And so it is in the -- it is in the
03 standards process, it is -- it is really the
04 implementation guide to standards, as I understand it,
05 as it was explained to me.
06 And I have asked our folks to look with the
07 Water Board. Now, they set these -- they are the ones
08 that set the standard. I don't have any authority to
09 set those standards. I have the authority to do the
10 TMDLs, but I don't have the authority to set standards
11 or to create implementation guides.
12 But I think we need to work through that
13 issue, and then once we work through that, to my
14 satisfaction, where I feel that there is this
15 equitable representation of both, and I don't care
16 which way it comes out, but when I become convinced
17 that there is equitable representation of loading for
18 both non-point source and point source, then we will
19 move forward.
20 Now, there are times when we have to go move
21 forward in the sake of, for the sake of municipalities
22 needing to grow and industries needing to do things,
23 where we have to do TMDLs, or at least waste load
24 allocations, where both exist.
25 I don't have the -- I don't have the details
00112:01 of that, so I didn't put a, you know, total -- I
02 didn't stop it totally. But I directed most of the
03 work to be done that we are doing without some outside
04 stimulus to be done in watersheds where there was
05 simply non-point sources.
06 So I need to -- as soon as that issue is
07 resolved to my satisfaction, then we will move
08 forward.
09 Q. Have you established a time line for
10 reaching some resolution?
11 A. No. I didn't establish a date. I did ask
12 them to hurry every chance they got. But the fact of
13 the matter is, all we can do is encourage another
14 agency to move forward with that.

42. PAGE 113:01 TO 114:15 (RUNNING 00:02:53.250)

00113:01 Q. Does the Oklahoma Water Resources Board
02 recognize the same issues that you do, or let me
03 phrase it differently. Does it appear that they
04 understand the current concerns that you have?
05 A. I think that it would be fair to say that
06 they understand it. Keep in mind also that when you
07 talk about changes to water quality standards, while
08 there are state rules, they require federal approval,
09 EPA approval.
10 And so it is not a -- it is not an easy
11 process. It is not an issue that you can snap your
12 fingers and have done. I would prefer to have it
13 done. I would prefer to be comfortable with this. So
14 I have certainly not delayed it. I have certainly not
15 asked them to delay it.
16 And the more quickly it becomes, I am
17 convinced that either the current process is fair, or
18 changes that have been made to make it fair have been
19 done. I'm willing to go forward. But I want to be --
20 I really need to be convinced that the process is
21 equitable.

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13 recommendations from the Attorney General or any of
14 his representatives with regard to the TMDL?
15 A. I have not.

45. PAGE 120:12 TO 120:24 (RUNNING 00:00:43.324)

12 Q. I gather you hold the TMDL process in rather
13 high regard?
14 A. I do.
15 Q. Is it your opinion that it is -- it is the
16 appropriate way to manage multiple sources in a
17 watershed in order to achieve a water quality
18 objective?
19 A. It is the best we have.
20 Q. In this lawsuit, have you reviewed any of
21 the reports prepared by any of the experts that have
22 been retained by the outside counsel working with the
23 Attorney General's office?
24 A. No, no, I have not.

46. PAGE 123:01 TO 124:06 (RUNNING 00:01:26.589)

00123:01 Q. And my question involved reports prepared by
02 experts hired by counsel working with the Attorney
03 General's office. You said you haven't read any
04 reports?
05 A. No.
06 Q. Have you requested any?
07 A. No.
08 Q. Have any -- do you have specific
09 recollection of any reports coming to you, even if you
10 passed them off to somebody else? Have you even seen
11 them, to your knowledge?
12 A. I don't recall that I have seen them.
13 Q. Do you want to see any of them?
14 A. We have provided information to the Attorney
15 General as needed. So I don't know that I would want
16 to see them.
17 Q. Have you reviewed any report prepared by any
18 expert retained by the defendants in this lawsuit?
19 A. No.
20 Q. Have any been offered to you?
21 A. No.
22 Q. Have you requested to see any?
23 A. No.
24 Q. How do you keep up with what is going on in
25 the lawsuit, the Daily Oklahoman?
00124:01 A. Daily Oklahoman and whatever briefings are
02 provided to me by the Attorney General's office.
03 Q. And what briefings are provided to you?
04 A. I don't think we have had a lot.
05 Q. Well, when was the last time you had one?
06 A. I don't recall.

47. PAGE 125:09 TO 125:11 (RUNNING 00:00:15.588)

09 Q. To your knowledge, was ODEQ consulted about
10 developing the scientific evidence in this case?
11 A. No.

TOTAL: 1 CLIP FROM 1 DEPOSITION (RUNNING 01:46:37.497)

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18 A. The largest one is related to the Tar Creek
19 Superfund site. That's the one that I have personally
20 been involved in. There may be others that have
21 occurred, but that's the major one that I have been
22 involved in.

23 Q. And the Tar Creek natural resource damage
24 assessment is ongoing?

25 A. It is.

00015:01 Q. Prior to Tar Creek, were there others that
02 you recall that the state has been involved in?

03 A. I'm sure there are others that we have been
04 involved in. Just none come to mind right now.

05 Q. All right. Tell me if you can, and I'm
06 speaking generally, can you explain the process that
07 the agency goes through in conducting a natural
08 resource damage assessment?

09 A. Well, the natural resources trustee is the
10 Secretary of Environment, and our Land Protection
11 Division, at least in the case of Tar Creek, did an
12 assessment of the potential damages to natural
13 resources, along with other agencies that are involved
14 in that, and makes a report of that assessment to the
15 natural resources trustee.

16 Q. Are there federal statutes that guide the
17 process?

18 A. I believe there are, yes.

19 Q. Are you familiar with them?

20 A. Not -- I'm not an expert on those.

21 Q. Are there state statutes that guide the
22 process?

23 A. I'm not familiar with them, but I would
24 assume that if we are doing it under state law that
25 there are.

00016:01 Q. Can you direct me to those statutes?

02 A. No, I can't.

03 Q. Has the Oklahoma Department of Environmental
04 Quality conducted any natural resource damage
05 assessment or assessments in the Illinois River
06 Watershed?

07 A. Not that I'm aware of.

08 Q. The Illinois River Watershed is obviously a
09 term I will be using a number of times today. I want
10 to make sure that you and I are on the same page what
11 that means. Are you generally familiar with the
12 geographic area known as the Illinois River Watershed?

13 A. I am.

14 Q. Okay, good. Mr. Thompson, I have handed you
15 what I have marked as Exhibit 1 to your deposition.
16 Can you tell me what this is?

17 (Defendant's Exhibit 1 marked for
18 identification)

19 A. It is a provision of the environmental
20 quality code that generally says that it is unlawful
21 for persons to cause pollution to waters of the state,
22 and that if I determine that to be the case, that I
23 can order people to comply in a way that that ceases.

24 Q. All right. Just for the record purposes,
25 what I have, Exhibit 1 is the text of title 27-A,
00017:01 section 2-6-105 of the Oklahoma Statutes. Do you
02 agree?

03 A. Yes.

04 Q. What are Oklahoma Department of
05 Environmental Qualities responsibilities under this
06 statute?

07 A. Well, we have specific statutes that direct
08 us in our activities, as do other agencies. So we

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09 consider this a fall back position for the state, that
10 if action is not being taken by other agencies with
11 more direct statutory responsibility, that we do have
12 some authority to be the fall back for those kinds of
13 activities.
14 Q. So you're saying the way this is structured,
15 Oklahoma Department of Environmental Quality is, in
16 essence, sort of a back stop to the jurisdiction of
17 the other Oklahoma agencies that have environmental
18 responsibilities?
19 A. It can be interpreted that way.
20 Q. Has it been used that way, to your
21 knowledge?
22 A. Not to my knowledge.
23 Q. And from time to time today, I'm going to
24 ask you to read things into the record.
25 A. Okay.
00018:01 Q. And if I could ask you to read this
02 paragraph B aloud, please.
03 A. "If the executive director finds that any of
04 the air, land or waters of the state have been or are
05 being polluted, the executive director shall make an
06 order requiring such pollution to cease within a
07 reasonable time, or require such manner of treatments
08 or disposition of the sewage or other polluting
09 material that may be in his judgment be necessary to
10 prevent further pollution. Shall be the duty of the
11 person to whom such order is directed to fully comply
12 with the order of the executive director."
13 Q. All right. When it says in subsection B,
14 "The executive director finds," what is the process
15 that you or your staff go through in order to reach a
16 finding?
17 MR. HAMMONS: I will object to the form, to
18 the extent it calls for a legal conclusion.
19 Q. (BY MR. MCDANIEL) You can go ahead and
20 answer, sir.
21 A. The process would be that an issue would
22 come to our attention, the program would evaluate the
23 problem. Our legal staff would then look at the
24 statutory authorities, and then they would bring the
25 issue to me for a decision.
00019:01 Q. That decision, is that equivalent to a
02 finding?
03 A. It would be a -- yes, it would be a finding,
04 and if we found that there was an activity under the
05 statute that was not being addressed, we could issue
06 an order.
07 Q. All right. Are all findings that you issue
08 under this statute, are they in writing?
09 A. Oh, yes.
10 Q. Okay. If the Oklahoma Department of
11 Environmental Quality becomes aware of unlawful
12 pollution of the waters of the state, does it have the
13 duty to undertake this process?
14 A. It has a duty absent action by another
15 agency, with more specific statutory authority.
16 Q. All right. I'm going to ask you, sir, to
17 take a moment and look at this deposition notice that
18 I gave you, and familiarize yourself with the names of
19 the defendants. I'm assuming you don't have them
20 committed to memory.
21 A. I do not.
22 Q. There is one name on here, it is Aviagen,
23 Inc. that was originally in the case style, and they
24 are no longer a defendant in the case, so I'm putting

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25 a line through that. Would you take a moment and look
00020:01 at the names of all of the remaining defendants?
02 A. Okay.

5. PAGE 21:10 TO 22:04 (RUNNING 00:00:56.910)

10 Q. All right. You know this case, this lawsuit
11 involves allegations relating to the manner in which
12 poultry litter or some may say poultry waste has been
13 handled or utilized within the Illinois River
14 Watershed. Do you understand that to be the case?
15 A. I do.
16 Q. All right. That's the context for my
17 question.
18 A. Okay.
19 Q. So let me re-ask the question, if you don't
20 mind.
21 A. Okay.
22 Q. Have you as executive director of Oklahoma
23 Department of Environmental Quality made a finding
24 that any one of these companies listed as the
25 defendant in this case has caused pollution of the
00022:01 waters of the state of Oklahoma in the Illinois River
02 Watershed by virtue of management or utilization of
03 poultry litter or poultry waste?
04 A. I have not.

6. PAGE 22:09 TO 22:25 (RUNNING 00:01:02.567)

09 Q. (BY MR. MCDANIEL) I'm sorry, sir, would you
10 just repeat your answer so the video --
11 A. I have not.
12 Q. Now, the same context, sir, have you as
13 executive director made a finding that any poultry
14 grower operating under a contract with any one of the
15 companies that's listed as a defendant in this case
16 has caused pollution to the waters of the state of
17 Oklahoma in the Illinois River Watershed?
18 MR. HAMMONS: Object to the form.
19 THE WITNESS: Again, in the context of --
20 let me be clear. If a poultry grower has a violation
21 under our direct statutory responsibility, we could
22 have. For instance, if they had a septic tank that
23 was malfunctioning.
24 But in the context of the lawsuit, the
25 answer to your question is no, I have not.

7. PAGE 34:12 TO 34:25 (RUNNING 00:01:03.159)

12 Q. (BY MR. MCDANIEL) All right. I understand
13 from our earlier discussion that ODEQ as sort of the
14 final backstop as it comes to environmental protection
15 in Oklahoma, has ODEQ elected to step in to assert
16 jurisdiction with regard to the regulation of poultry
17 waste management in Oklahoma?
18 A. As of this date, no.
19 Q. Has the Oklahoma Department of Environmental
20 Quality made a finding that the spreading of poultry
21 waste on lands within the Illinois River Watershed may
22 present an imminent and substantial endangerment to
23 human health?
24 MR. HAMMONS: Object to the form.
25 THE WITNESS: No.

8. PAGE 44:02 TO 44:25 (RUNNING 00:01:46.619)

02 Q. (BY MR. MCDANIEL) Now, changing gears now,
03 sir. What is Oklahoma Department of Environmental

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00077:01 25 discussion of Arkansas River Compact Commission, the
02 third paragraph, it says, "Mr. Thompson stated that in
03 his opinion the EPA, state legislatures and the
04 general public might be more amenable to a bi-state
05 effort as opposed to a unilateral one. He went on to
06 say that the TMDL mechanism could allow for economic
07 progress and growth as well as protection from the
08 basin."
09 "Mr. Ken Smith stated that he would like to
10 see staff members from the states meet and discuss the
11 possibilities of developing a TMDL process that would
12 be agreeable to both states and place the item on the
13 next meeting agenda for discussion."
14 Do you agree with the statement that's
15 attributed to you in these minutes, sir, that the TMDL
16 process allows for economic progress growth while
17 protecting the waters in the basin?
18 A. I agree that the mechanism itself could do
19 that.
20 Q. Okay. So the possibility of employing the
21 TMDL process for the Illinois River Watershed was at
22 least one of the items on the agenda of the
23 Arkansas/Oklahoma governor's joint environmental task
24 force. Do you agree with that?
25 A. Yes.

23. PAGE 77:25 TO 78:02 (RUNNING 00:00:12.000)

00078:01 25 Q. Now, when, to your knowledge, did the
02 discussion of Oklahoma implementing TMDLs for the
03 Illinois River Watershed first begin?

24. PAGE 78:03 TO 79:21 (RUNNING 00:04:07.000)

03 A. Oh, I don't know the exact date, but there's
04 been ongoing discussions about it for quite a while,
05 long time. Years.
06 Q. The United States Environmental Protection
07 Agency has been encouraging Oklahoma to implement
08 TMDLs in the Illinois River Watershed since at least
09 this 1992 year?
10 A. That's probably true.
11 (Defendant's Exhibit 11 marked for
12 identification)
13 Q. All right, Mr. Thompson, I'm handing you
14 what I have marked as Exhibit 11 to your deposition.
15 If you want to look it over and tell me if you
16 recognize it.
17 A. Apparently it is a letter I received in,
18 toward the end of 1992.
19 Q. All right.
20 A. I don't have any reason to believe that I
21 didn't receive it in 1992.
22 Q. Okay. It is from a Richard Hoppers, PE,
23 Chief Water Quality Management Grants, United States
24 Environmental Protection Agency, Region 6, Dallas, to
25 you at the time you were director of the Oklahoma
00079:01 Department of Pollution Control, couple dates stamped
02 on here, December 4th, 1992 and then received by your
03 department in December 10th, 1992. It is a little
04 blurry.
05 A. Uh-huh.
06 Q. Do you recall the subject matter of this
07 discussion with the Environmental Protection Agency?
08 A. I would have to read it.
09 Q. Well, go ahead and take a moment and read
10 through it, please.

Case Clip(s) Detailed Report
Friday, December 18, 2009, 11:16:05 AM

State of OK v. Tyson (11-30-09)

28. PAGE 86:05 TO 86:08 (RUNNING 00:00:11.738)

05 Q. All right, sir, I'm handing you what I have
06 marked as Exhibit 12 to your deposition. Take a
07 moment and look that over.
08 A. Okay.

29. PAGE 86:16 TO 87:24 (RUNNING 00:02:27.833)

16 Q. The third sheet in the exhibit, this first
17 page, and it has got July 16th, 1993, 10:00 a.m. It
18 appears to me to be an agenda for a meeting?
19 A. I agree.
20 Q. Okay. And on the agenda, item number 3,
21 discussion of future priorities, annual report
22 framework. Let's turn one page, and there is a
23 document labeled, priorities for the future. It says,
24 "The following items were identified as priorities for
25 the future protection and preservation of the Illinois
00087:01 River by speakers at the Illinois River symposium,
02 August 30th, 1993."
03 Were you aware of this symposium?
04 A. Yes.
05 Q. Tell me about that, please.
06 A. My recollection is that this was something
07 that was done in the form of a public meeting, where
08 people were giving, given the opportunity to speak
09 about the Illinois River, and citizens were given the
10 opportunity to provide input into the task force and
11 the direction the state needed to take related to the
12 Illinois River.
13 That's my recollection of it.
14 Q. Is it -- would it be reasonable to assume
15 that then this list of priorities was drawn from that
16 discussion?
17 A. Yes, it would be.
18 Q. Under the heading identified needs, the very
19 first bullet point, first item mentioned is a TMDL?
20 A. Uh-huh.
21 Q. You have to say yes or no for the record,
22 please, sir.
23 A. I'm sorry. Yes, that's part of the first
24 heading. Numerical standard and TMDL, that's correct.

30. PAGE 87:25 TO 89:06 (RUNNING 00:02:32.545)

25 Q. The third bullet point says, "Lake Francis
00088:01 dredging."
02 A. Yes.
03 Q. Can you tell me generally, sir, what is the
04 issue with Lake Francis, or what was it at that time?
05 A. I will try. Lake Francis was a lake, as I
06 recall it, that was right on the Arkansas/Oklahoma
07 line. And some viewed Lake Francis as a treatment, as
08 a lagoon, a treatment lagoon, that's the best way I
09 can describe it.
10 So that contaminants that were coming from
11 Arkansas flowed into Lake Francis. It acted as a
12 repository for sediments and other things, and then it
13 came out the other side in better condition than it
14 did when it flowed into the lake.
15 Q. And at some point the dam --
16 A. The dam gave --
17 Q. -- partially breached?
18 A. Yes.
19 Q. So what was the idea about Lake Francis
20 dredging that's been identified here as a need?